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REPORT ON OTHER MEETINGS AND ACTIVITIES

Note by the Secretary-General

Contribution from the Martin Ennals Memorial Symposium on Self-Determination

1. The General Assembly, in its resolution 46/116, requested the Secretary-General to report to the Preparatory Committee on progress made on meetings that had been organized under the auspices of the United Nations programme pursuant to General Assembly resolution 45/155.

2. The attention of the Preparatory Committee is drawn to the attached contributions, entitled "The Saskatoon Statement on Self-Determination" and "The Saskatoon Recommendations on Self-Determination", which were adopted at the Martin Ennals Memorial Symposium on Self-Determination held at the University of Saskatchewan and sponsored by the University and International Alert of London.

3. The Symposium focused on two main areas: (1) a (re)-definition of self-determination in the post-colonial era and (2) recommendations on an early warning system and on how the international community should deal with demands for self-determination. The attention of the Preparatory Committee is drawn, in particular, to the recommendations concerning a United Nations Commission on Self-Determination and an independent non-governmental commission on self-determination.

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THE SASKATOON STATEMENT ON SELF-DETERMINATION

Adopted by Substantial Majority at the Martin Ennals Memorial Symposium on Self-Determination

Co-sponsored by College of Law, University of Saskatchewan and International Alert

Saskatoon, Saskatchewan, Canada

6 March 1993

1 All peoples have the right to self-determination under international law. This right is now well established in customary international law, and the principle is recognized in the Charter of the United Nations. As well, more than 115 states are legally bound by this norm through their adherence to one or both of the International Covenants on human rights. The inclusion in both Covenants of the right to self-determination underscores the fact that full implementation of this right also implies the guarantee of all other civil, political, economic, social, and cultural rights, in particular the rights of equality and non-discrimination.

2 Self-determination serves at least two primary purposes: ensuring a representative, democratic and participatory framework in which people have the possibility of effective participation in political, social, and economic life, and in creating the conditions necessary for a people to protect and develop its identity. Achievement of these purposes is equally important to all individuals--women and men--minorities, and other groups within society.

3 National, ethnic, religious, linguistic, and other minorities are entitled to respect and the fullest opportunity to maintain and develop their distinctive characteristics. Minorities lacking adequate resources to do so should be accorded a fair share of public funds, sufficient to enable the preservation of their distinctive characteristics. States should, at a minimum, conform to the principles set forth in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which was adopted by the UN General Assembly in December 1992. The legitimate rights of the majority in a state should be exercised in the context of effective participation by members of minorities in the larger society.

4 Peoples may exercise their right to self-determination in a wide variety of forms, responding to their particular circumstances. The right to self-determination may conflict with other rights, and is often reflected in constitutional arrangements such as confederation, federation, autonomy, self-government, devolution, decentralization, and other mechanisms which are devised by mutual agreement.

5 Recent events have starkly drawn attention to the ways in which the purported exercise or denial of a people's right to self-determination can give rise to violations of individual human rights and the rights of minorities, based on intolerant notions of ethnic superiority and exclusivity. Self-determination is not necessarily tied to ethnicity. A heterogeneous, multicultural and multilingual society may reflect its peoples' right to self-determination as effectively as a more homogeneous society would.

6 Formation and re-formation of states may be one outcome of the exercise of the right of self-determination but it is not a necessary or even usual consequence of fulfilment of a people's right to self-determination. There are some circumstances in which the international community has recognized the right of peoples to form or re-form a state. Without purporting to exhaust the instances in which such rights have been so recognized, they include:

- situations of colonization;
- situations in which the government of a state is unrepresentative of its peoples by virtue of the fact that it excludes a distinct group from equal participation in political life;
- cases of the occupation or domination of the population of a state as a whole by foreign forces; and
- by agreement of the peoples of the state concerned.

7 There is not yet widespread agreement on all of the conditions which would give rise to a right to secession under international law. However, it should be emphasized that international law does not prohibit secession or dissolution of a state. In addition, a people may possess a right to self-determination which should be respected, even if the exercise of that right does not include secession in their particular circumstances at that time.

8 In this International Year of Indigenous Peoples, it is especially appropriate to recognize and reaffirm the right of indigenous peoples to self-determination as provided by international law. By virtue of this right, they should be free to determine their political status and freely pursue their economic, social and cultural development. Many indigenous peoples have been systematically excluded from the formation of, and participation in, the states which now surround them.

9 In addition, it is essential that indigenous peoples have the possibility of effective, direct access to international forums, including those which are considering the definition of their rights. Indigenous peoples should be recognized as active and effective participants in international bodies which consider matters of direct concern to them. Governmental and nongovernmental bodies must become more aware of the unique situation of indigenous peoples and their extreme vulnerability to ecological degradation, exploitation, and gross violations of human and peoples' rights.

10 Additional legal and political attention needs to be given to elaborating the substantive content of, and procedural mechanisms for, achieving self-determination. Concepts such as sovereignty, statehood, nationalism, territorial integrity and discovery and settlement based on the doctrine of *terra nullius* have evolved in specific historical contexts, have not prevented human rights abuses or wars, and do not respond adequately to the complex and often contradictory requirements of political, economic, and technological realities as they exist at the end of the twentieth century. New solutions must be found that go beyond the current, limited domain of international law so as to address the changing nature of state sovereignty and the implications of an increasingly interdependent world in which borders are becoming less relevant.

11 The participants in the Symposium considered that it should be followed by:

- similar symposia in other parts of the world to monitor progress in the self-determination of peoples; and
- an international conference on the rights of indigenous peoples to self-determination.

12 In its essence, the right of peoples to self-determination is a liberating concept. Therefore, its achievement must be secured in a way that will promote respect for the rights of women and men, minorities, and other groups within society. Equally it must contribute to peace and security in the world.

THE SASKATOON RECOMMENDATIONS ON SELF-DETERMINATION

Adopted unanimously at the Martin Ennals Memorial Symposium on Self-Determination Co-sponsored by College of Law, University of Saskatchewan and International Alert

Saskatoon, Saskatchewan, Canada

6 March 1993

The participants in the Symposium unanimously adopted the following recommendations. They requested that the Co-sponsors take steps to ensure that the recommendations are drawn to the attention of the World Conference on Human Rights to be held in Vienna, Austria, in June 1993 and other relevant governmental and nongovernmental bodies;

1 The Symposium recommends that the following actions be taken by the United Nations:

1.1 The United Nations and its Member States should give serious consideration to the progressive development of the concept of self-determination, to identifying or creating a mechanism which could consider self-determination claims where there is a risk of disturbance of the peace or violations of fundamental human rights. Without prejudging the issue, such a mechanism could involve a new UN Commission on Self-Determination (equivalent to the existing Commission on Human Rights) or expanding the mandates of existing bodies such as the Trusteeship Council, Committee of 24, Fourth Committee of the General Assembly, or the Security Council. Pursuant to article 36(3) of the UN Charter, the Security Council should consider referring appropriate situations to the International Court of Justice for an advisory opinion or, where the parties agree, a judgment. The peoples affected should have direct and effective access to any such mechanism.

1.2 The United Nations should immediately establish a High Commissioner, Working Group or Special Rapporteur with appropriate resources, to monitor implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities. Similar action should be taken immediately upon adoption of the Declaration on the Rights of Indigenous Peoples which is now being drafted by a Working Group of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The peoples or minorities affected should have direct and effective access to any such person or body.

1.3 The United Nations, Member States and the Secretary General should pay particular attention to claims for self-determination in implementing the Secretary General's *Agenda for Peace*. Where legitimate claims for self-determination are denied--or illegitimate claims are made--there is an obvious potential for breaches of international peace and security. The range of options available to the Secretary-General--from early warning to peace-keeping, peace-making, and peace enforcement--should be fully utilized.

1.4 The United Nations should consider the adoption of a convention or conventions to protect cultures and languages from destruction.

2 To assist the United Nations and to stimulate action by the international community, the Symposium further recommends the establishment of an independent, nongovernmental Commission on Self-Determination.

2.1 The Commission should be charged with:

- Examining the scope and content of the right to self-determination;
- Identifying the relevant criteria for determining the legitimacy of a claim to self-determination;
- Recommending specific mechanisms which would have the competence to decide such claims;
- Proposing means of encouraging dialogue in respect of such claims; and
- Suggesting effective ways in which the right to self-determination might be exercised in the face of resistance by those with the power to deny the right.

2.2 The Commission on Self-Determination should receive information from all relevant sources and cooperate with existing institutions relevant to this issue, including the International Commission on Global Governance. Members of the Commission should serve in their individual capacity and the Commission's membership should reflect as broad a political and regional representation as is possible. In constituting the Commission, due regard should be paid to ensuring an appropriate participation by women and men. Access to the Commission by all concerned peoples, minorities groups and individuals should be assured.